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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,995	12/21/2004	Junbiao Zhang	PU020308	7036
24498	7590	02/27/2009		
Robert D. Shedd Thomson Licensing LLC PO Box 5312 PRINCETON, NJ 08543-5312			EXAMINER ANDRAMUNO, FRANKLIN S	
			ART UNIT 2424	PAPER NUMBER
			MAIL DATE 02/27/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/518,995

**Applicant(s)**

ZHANG ET AL.

**Examiner**

FRANKLIN S. ANDRAMUNO

**Art Unit**

2424

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 2/10/09 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-14.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Chris Kelley/  
Supervisory Patent Examiner, Art Unit 2424

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues on page 7 first paragraph, "Reynolds describes transmitting aspects of a device that supplies a media stream whereas pending claims 1 and 8 are directed to receiving aspects of a device that receives a media stream." While applicant's point is understood examiner disagrees. Please note that the claim language necessitated to rejected claims 1 and 8 is met by Reynolds. Nowhere in the claims is specified the difference between supplied media stream and media stream.

Applicant argues on page 8 second paragraph, "Reynolds-provided definition of WAP fails to disclose the claim 1 and 8 aspect of downloading through one of a first radio access network and a second radio access network, a video program using a mobile terminal." Examiner again respectfully disagrees. Reynolds explains on (page 20 paragraph (0182)) a first player initially makes a connection to the server (300) the connection speed (32Kbps). A second stream is requested by a client using M/S player at 100Kbps with MMS. The server loads the appropriate MS CODEC thread at the appropriate 100Kbps rate. This shows that different applications are downloaded through one of a first radio access network and a second radio access network.

Furthermore, applicant argues on page 8 sixth paragraph, "Reynolds indicates in figure 3 a single network (220) and not multiple networks as recited in the pending claims. Examiner disagrees. Reynolds teaches on (page 27 paragraph (0243)) the present invention supports continued growth in mobile communications, as large telecommunications operators are transitioning to multi-service broadband networks. This clearly indicates the use of multiple networks as part of the invention design of continued growth.

In addition, applicant argues on page 8, seventh paragraph, "Reynolds teaches a transmission of multiple streams of data to multiple different clients. This is in contrast with pending claims 1 and 8 which recite a single mobile terminal downloading a video program using a first rate in a first network and a second rate in a second network." Examiner again disagrees. Reynolds teaches on (page 27 paragraphs (0239)-(242)) wireless or mobile internet, the system provides an invention for encoding, compressing and transmitting complex digital media (e.g. video pictures) via bandwidthconstrained wireless communications systems. This clearly indicates a system capable of downloading (encoding/compressing/transmitting) video. Moreover, Reynolds teaches on (page 20 paragraph (0182)), as disclosed on the second paragraph of this response, a system that supports a first connection speed and a second connection speed. Furthermore, Reynolds teaches on (page 19 paragraph (0164)) the invention is a mobile telephone communications system incorporating the embodiments shown in the figures.

Moreover, the applicant argues on page 9, fourth paragraph, "Reynolds fails to teach the aspect of a mobile terminal that buffers portions of the downloaded video program resulting when a rate at which the video program is downloaded exceeds the playback rate." Examiner again disagrees. Reynolds teaches on (page 20 paragraph (0182)) the server (300) pulls the live or pre-encoded video into a "live buffer" or "cache" (310) and encodes it a digitized but nearly uncompressed data. The server (300) then loads an appropriate CODEC thread at the connection speed (e.g. 32Kbps). The second stream is requested by a client using M/S Player at 100Kbps with MMS. This shows that the system is capable of detecting the speed at which the playback rate is displayed and the system responded according to its demand.

Applicant further argues on page 10 fourth paragraph, "Message to cellular customer in cell 2 fails to teach the claims 1 and 8 aspect of negotiating with the first access network, the third data transfer rate for downloading the video program, when the difference between the first and third data transfer rates exceeds a threshold level." Examiner disagrees. Reynolds teaches on (page 20 paragraph (0182)) a first and second rate for network access. However, Reynolds also teaches a third stream, using a different rate than the first two (40Kbps) with RTSP. Reynolds indicates the server (300) loads the appropriate Real CODEC thread at the appropriate 40 Kbps rate. This is clearly a third downloading rate for transferring video in case the first two access network won't suit properly.

Furthermore applicant argues on page 12, third paragraph, "claims 1 and 8 recite a first rate using a first network, and a second network having a second data rate which is higher than the first data rate. This is in contrast to Hassan which teaches that the first data rate is unavailable and the second data rate is Lower than the first data rate. Thus Hassan actually teaches away from the current invention of claims 1 and 8. Examiner disagrees. Hassan teaches on (column 2 lines 28-37) in some instances the current maximum data rate is greater than the first data rate. In that case, the transmitter transmits at the second data rate. This clearly shows a system a first and a second data rate wherein the transmission is established with the higher data rate.

Applicant also argues on page 13 fourth paragraph, "the combination of Reynolds, Hassan, and Kearney likewise fail to render obvious independent claims 1 and 8." Examiner respectfully disagrees. It was shown in this response that Reynold and Hassan could be combined to yield predictable results. Moreover, all the limitations argued by the applicant were shown to be disclosed by Reynold and Hassan.